

MITCHEL T. RICE, NO. 6022
STEPHEN F. EDWARDS, NO. 10780
MORGAN, MINNOCK, RICE & JAMES, L.C.
Kearns Building, Eighth Floor
136 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 531-7888
Fax number: (801) 531-9732

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE STATE OF UTAH, CENTRAL DIVISION

SUSIE WHITING, individually and on
behalf of the ESTATE OF THERON
DANIEL WHITING,

Plaintiffs,

vs.

RITE AID CORPORATION, a Delaware
corporation, dba RITE AID
PHARMACY; THRIFTY PAYLESS
HOLDINGS, INC., a Delaware
corporation, dba RITE AID
PHARMACY; RITE AID LEASE
MANAGEMENT COMPANY, a
California corporation, dba RITE AID
PHARMACY; and THRIFTY
PAYLESS INC, dba RITE AID,

Defendants.

**NOTICE OF REMOVAL TO
FEDERAL COURT**

Case No.

Judge

PLEASE TAKE NOTICE that Defendants to the above-referenced action, by and through Counsel of record, Morgan, Minnock, Rice & James, L.C., hereby remove this action from the Third Judicial District Court, Salt Lake County, State of Utah, to the United States District Court, State of Utah, Central Division, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and respectfully state as follows:

1. Plaintiff Susie Whiting filed the Amended Complaint against Defendants in the Third Judicial District Court, Salt Lake County, State of Utah, bearing Case Number 120900246, on February 3, 2012. A copy of the Amended Complaint is attached as Exhibit "A".

Defendants' Counsel accepted service on February 24, 2012. A copy of the Acceptance of Service is attached as Exhibit "B".

2. As more fully set out below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 because Defendants have (1) satisfied the procedural requirements for removal, and (2) this Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332.

3. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Counsel for Plaintiff, and a copy is also being filed with the Clerk of the Court for the Third Judicial District Court.

4. There is complete diversity between the Parties to this action.

5. According to the Amended Complaint, Plaintiff Susie Whiting is and was at the time she commenced this action a resident of the State of Alaska. (Amended Complaint ¶ 1).

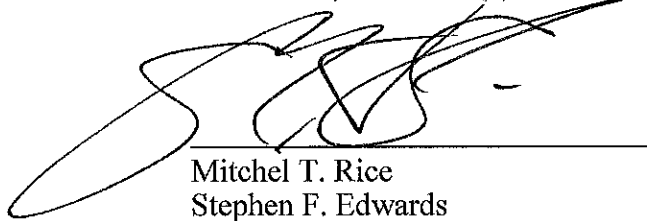
6. At the time Plaintiff commenced this action, Defendants were Delaware corporations and a California corporation with their principal place of business in the State of Pennsylvania. (*Id.* ¶¶ 2-4)

7. With respect to the amount in controversy, Plaintiff filed this action in the Third Judicial District, Salt Lake County, State of Utah, as a Tier 3 case. (Complaint ¶ 9). Pursuant to Rule 26 of the Utah Rules of Civil Procedure, Tier 3 is exclusively for cases with damages in the amount of \$300,000 or more. Thus, the amount in controversy exceeds \$75,000, exclusive of costs and interest.

WHEREFORE, Defendants respectfully remove this action from the Third Judicial District Court, Salt Lake County, State of Utah, pursuant to 28 U.S.C. § 1441, and respectfully request that this Court assume complete jurisdiction over this action and exclude any further proceedings in State Court.

DATED this 23 day of March, 2012.

MORGAN, MINNOCK, RICE & JAMES, L.C.

A large, stylized handwritten signature in black ink, appearing to be "Mitchel T. Rice", is written over a horizontal line.

Mitchel T. Rice
Stephen F. Edwards
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 23 day of March, 2012, I caused a true and correct copy of the foregoing **NOTICE OF REMOVAL TO FEDERAL COURT** to be mailed via first-class mail, postage prepaid, to the following:

John D. Ray
FABIAN & CLENDENIN
215 South State Street, Ste. 1200
Salt Lake City, Utah 84111-2323

Third Judicial District Court
Clerk of the Court
450 South State Street
PO Box 1860
Salt Lake City, Utah 84114-1860

